

Other legal complications might ensue, such as prejudice of a subsequent hearing by a discipline committee, or a suit for slander arising from publicly uttered statements. For these reasons, it was decided the Board should hold its reviews in closed sessions, except when the parties specifically request an open meeting, or when the Board considers there is substantial reason for a public review. To guard the public interest, however, the Board will periodically publish a summary of the main aspects of each complaint and of its disposition.

#### Registrations can be reviewed

The second function of the Board is concerned with college registration. If a member of a health profession seeking registration disagrees with a decision handed down by a college registration committee, he or she may bring the matter before the Board.

In this case, the Board is required to hear evidence, to keep a record of its proceedings, and—if either party requests it—to give written reasons for its decision. All such proceedings are held in public, and either the applicant or the council of the college can appeal the decision to the Supreme Court of Ontario.

This summary covers the main features of the jurisdiction and role of the Health Disciplines Board. For further information copies of the Health Disciplines Act, priced at \$1.50, are available from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario M7A 1N8.

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# REVIVING THE PUBLIC INTEREST

THE HEALTH DISCIPLINES BOARD

# *The Health Disciplines Act -What it means to you*

The standard of health care you receive is the responsibility of the Ontario Government. To help ensure a high standard of care, a bill called the Health Disciplines Act was passed into law. (In this context 'discipline' means a branch of learning or training.)

The Act is concerned with five major health disciplines or professions—dentistry, medicine, nursing, optometry and pharmacy. Eventually it's expected to cover all health disciplines or professions active in the province.

Under the Act, each discipline continues to be largely self-governing. Each has its own college council or governing body. Each council has four committees—executive, registration, complaint and discipline. (In this context 'discipline' refers to the maintenance of standards by imposing penalties, if necessary.)

As a result of the Health Disciplines Act, non-professionals representing the public now sit side-by-side with the health professionals on all councils and committees.

**Health Disciplines Board established**  
Another result of the Act was the establishment of the Health Disciplines Board—an appeal board, which is an independent authority, entirely made up of lay people, who are not in the public service of the province and who are not, and never have been, members of a health discipline. The main role of the Board is to ensure that the public's interests are protected.

The Board consists of a chairman, vice-chairman and between three and five members, all appointed by the Lieutenant Governor of Ontario. Each appointment is for a specified period of one, two or three years. Succeeding appointments will be for three-year periods, so new appointments can be made each year without the entire Board being replaced. Board members are paid from public funds, and the Board has the authority to call in expert and professional advisers.

## **Two main functions**

**COMPLAINTS** To hear reviews on decisions reached by the complaints committee of any of the colleges covered by the Act, when the decisions are unacceptable either to the member of the general public or the practitioner.

**REGISTRATION** To hear or review cases where the registration committee of any of the colleges covered by the Act has either rejected or attached conditions or limitations to an individual's application to be registered by that college.

## **Complaints heard**

Let's follow a complaint case through to the end. A member of the general public makes a written complaint to the college concerned against a practitioner. If the case cannot be resolved, then it is presented to the complaints committee of the respective college. The facts are considered. Professional opinions are obtained on the adequacy or appropriateness of the services provided. If the practitioner's conduct requires it, the case is referred to the discipline committee of the college. In this event the Board has no jurisdiction. But if no professional misconduct is indicated, the complaints committee reaches a decision about what action is appropriate. If either the complainant or the practitioner is dissatisfied with

the solution proposed by the committee, the Board can be requested to review the decision.

## **Board's review is important**

The review conducted by the Board examines the actions of the college complaints committee to determine three things—

- has the committee considered all the relevant facts;
- has its investigation clearly indicated that the proposed solution is reasonable;
- and has it protected the public interest in considering the complaint.

It also makes every effort to help resolve the complainant's problem. If this is achieved, appropriate recommendations are made to the college complaints committee.

However, the Board does have the ultimate power to require the complaints committee to take whatever action, within the terms of the Act, the Board directs should be taken.

The Board does not have authority to consider or make awards where damages are sought, nor to hear appeals regarding a disciplined member of a college. In both these cases, only the law courts of Ontario have jurisdiction.

## **The hearing of complaints**

Careful consideration has been given to whether meetings held by the Board to review complaints should be open to the public. At first sight, this might seem to be in the public interest. There are, however, other important considerations—particularly the rights of the parties concerned.

Review of complaints in public could invade individual privacy, and could inhibit free and open representation before the Board.